# UNITED STATES PATENT AND TRADEMARK OFFICE

# NOTICE OF ALLOWANCE AND FEE(S) DUE

| 164 | 7590 | 02/27/2009 |

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

| EXAMINER |
| --- |
| HOLMES, MICHAEL B |

| ART UNIT | PAPER NUMBER |
| --- | --- |
| 2129 | |

DATE MAILED: 02/27/2009

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| --- | --- | --- | --- | --- |
| 10/577,499 | 04/28/2006 | Bruno Bleines | B829. 312-0001 | 9933 |

TITLE OF INVENTION: HEALTH MONITORING SYSTEM IMPLEMENTING MEDICAL DIAGNOSIS

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
| --- | --- | --- | --- | --- | --- | --- |
| nonprovisional | YES | $755 | $300 | $0 | $1055 | 05/27/2009 |

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

# PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to:** **Mail**    Mail Stop ISSUE FEE
**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, Virginia 22313-1450**
or **Fax**   **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

164          7590         02/27/2009

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

_____ (Depositor's name)

_____ (Signature)

_____ (Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/577,499 | 04/28/2006 | Bruno Bleines | B829. 312-0001 | 9933 |

TITLE OF INVENTION: HEALTH MONITORING SYSTEM IMPLEMENTING MEDICAL DIAGNOSIS

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | YES | $755 | $300 | $0 | $1055 | 05/27/2009 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|---|---|---|
| HOLMES, MICHAEL B | 2129 | 706-047000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE            (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent):   ☐ Individual   ☐ Corporation or other private group entity   ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____    Date _____

Typed or printed name _____    Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/577,499 | 04/28/2006 | Bruno Bleines | B829. 312-0001 | 9933 |

| | | |
|---|---|---|
| 164 | 7590 | 02/27/2009 |

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

| EXAMINER |
|---|
| HOLMES, MICHAEL B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2129 | |

DATE MAILED: 02/27/2009

# Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 237 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 237 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702.  Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101   or (571)-272-4200.

PTOL-85  (Rev. 08/07) Approved for use through 08/31/2010.

| | Application No. | Applicant(s) |
|---|---|---|
| *Notice of Allowability* | 10/577,499 | BLEINES, BRUNO |
| | Examiner | Art Unit | |
| | MICHAEL B. HOLMES | 2129 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *11/24/2008*.

2. ☒ The allowed claim(s) is/are *18-37*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All    b) ☐ Some*   c) ☐ None  of the:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

       3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

  (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached

    1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

  (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of
    Paper No./Mail Date _____ .

  Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .

7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____ .

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

# Examiner's Detailed Office Action

1.      Claims 1-17 have been canceled.

2.      Claims 18-37 are allowed.

## REASONS FOR ALLOWANCE

3.      The following is an Examiner's statement for reasons for allowance:

4.      Claims 18-37 are considered allowable since when reading the claims in light of the

specification, as per, MPEP §2111.01 or Toro Co. v. White Consolidated Industries Inc., 199

F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999), none of the references of record

alone or in combination disclose or suggest the combination of limitations specified in the

independent claim(s).

5.      The limitations recited in independent claim 18 "… select and/or input, in said data

server, medical data, in particular of the "vomiting" type; input and index health actions, in

particular of the "hospitalization" type, corresponding to said medical data; configure, using

said selected medical data, the monitoring rules, presented in particular in the form of SQL

queries of the "if symptoms = vomiting and temperature > 38.5°C, observation period = 24h

health action = check urine" type, said monitoring rules being recorded and indexed with said

health actions in said data server; and input and send alert protocols to said data server, in par-

ticular information relative to the contact information of the person to inform in the event that

a realized health action would be different from the corresponding monitoring rule; means of

analysis for analyzing the compatibility of said protocols thus sent, in particular the compatibility

over time between the new monitoring rules and the former monitoring rules; a distant terminal,

located with said patients, in particular with said patients that are maintained in the home; said

distant terminal being connected to sensors, in particular to medical measuring devices, provi-

ding medical data to said distant terminal, and/or said distant terminal receiving said medical

data from said users and/or said patients via a second man-machine interface of said distant

terminal; and means of programming in order to program automatisms in said distant terminal,

from said data server via said communications network, said automatisms being programmed

using said medical data and said health actions indexed in said data server; said distant terminal

including means for activating said automatisms thus programmed in order to: apply, periodic-

ally, said monitoring rules to said medical data provided to said distant terminal by generating

health actions to be executed, check the execution, by said users, of said health actions, and

generate alerts in the event said health actions are not executed by said users; wherein the system

makes it possible to compile a personalized diagnosis base for each patient and to generate the

triggering of appropriate alerts."

6.      The limitations recited in independent claim 19 "… select and/or input, in said data

server, medical data; input and index health actions corresponding to said medical data; con-

figure, using said selected medical data, the monitoring rules, presented in the form of SQL

queries, said monitoring rules being recorded and indexed with said health actions in said data

server; and input and send alert protocols to said data server in the event that a realized health

action would be different from the corresponding monitoring rule; a distant terminal, located

with said patients; said distant terminal being connected to sensors providing medical data to said

distant terminal, and/or said distant terminal receiving said medical data from said users and/or

said patients via a second man-machine interface of said distant terminal; means of programming

in order to program automatisms in said distant terminal, from said data server via said commu-

nications network, said automatisms being programmed using said medical data and said health

actions indexed in said data server; and means for activating said automatisms programmed in

said distant terminal in order to: apply, periodically, said monitoring rules to said medical data

provided to said distant terminal by generating health actions to be executed; check the execu-

tion, by said users, of said health actions; and generate alerts in the event said health actions are

not executed by said users, wherein the system makes it possible to compile a personalized diag-

nosis base for each patient and to generate the triggering of appropriate alerts."

7.      The limitations recited in independent claim 20 "… configure, using selected medical

data and health actions input in said data server, monitoring rules in order to recommend one of

the health actions, presented in the form of SQL queries, said monitoring rules being recorded in

said data server; and input and send alert protocols to said data server in the event that a realized

health action would be different from a corresponding monitoring rule; a distant terminal, located

with said patients, said distant terminal being connected to sensors providing medical data to said

distant terminal, and/or said distant terminal receiving said medical data from said users and/or

said patients via a second man-machine interface of said distant terminal; means of programming

in order to program automatisms in said distant terminal, from said data server via said communications network in said data server; and means for activating said automatisms programmed in said distant terminal in order to: apply, periodically, Said monitoring rules to said medical data provided to and/or received by said distant terminal in order to recommend health actions to be executed; and generate alerts in the event said recommended health actions are not executed by said users, wherein the system makes it possible to generate the triggering of appropriate alerts."

8.      The limitations recited in independent claim 21 "… configure, using selected medical data and health actions input in said data saving means, monitoring rules in order to recommend one of the health actions, presented in the form of SQL queries, said monitoring rules being recorded in said data saving means; and input and send alert protocols to said data saving means in the event that a realized health action would be different from the corresponding monitoring rule; a distant terminal, located with said patients, said distant terminal being connected to sensors providing medical data to said distant terminal, and/or said distant terminal receiving said medical data from said users and/or said patients via a second man-machine interface of said distant terminal; means of programming in order to program automatisms in said distant terminal, from said data saving means via said communications network in said data saving means; and means for activating said automatisms programmed in said distant terminal in order to: apply, periodically, said monitoring rules to said medical data provided to and/or received by said distant terminal in order to recommend health actions to be executed; and generate alerts in the event said recommended health actions are not executed by said users, wherein the system makes it possible to generate the triggering of appropriate alerts."

9.      The limitations recited in independent claim 22 "… configuring monitoring rules using medical data and health actions; obtaining alert protocols; obtaining medical data by a distant terminal located with said patient, said obtained medical data being medical data measured by sensors and provided to said distant terminal, or medical data received from said users and/or said patient via a first man-machine interface of said distant terminal; applying, periodically, said monitoring rules to said medical data obtained by said distant terminal in order to recommend health actions to be executed; and generating at least an alert, taking into account at least one of said alert protocols, in the event said recommended health actions are not executed by said users."

10.      The limitations recited in independent claim 27 "… programming a distant terminal, located near the patient in such a way that the distant terminal implements an automatism applying the monitoring rules to the medical data provided to the terminal by a sensor associated With the patient and/or by a first man-machine interface of the distant terminal and/or by a second man-machine interface of a networked station and/or by the network; and applying by said automatism at least one of said monitoring rules to at least one of the medical data provided to said distant terminal by said first man-machine interface of the distant terminal, where said at least one of the medical data has been input by said medically-qualified person, in order to associate with said at least one of the medical data a health action to be executed, and generate an alert in the event said health action to be executed is different from the health action executed by at least a user."

11.     The limitations recited in independent claim 36 "… means for associating medical data

with health actions via monitoring rules for use by the medically-qualified person; means for

programming a distant terminal, located near the patient in such a way that the distant terminal

implements an automatism applying the monitoring rules to the medical data provided to the

terminal by at least one sensor that belongs to the patient and/or by a first man-machine interface

of the distant terminal and/or by a second man-machine interface of a networked station and/or

by the network, said automatism applying at least a monitoring rule to the medical data provided

to the terminal by said first or second man-machine interface where said medical data was input

by said medically-qualified person, in order to associate with said medical data a health action to

be executed, and generate an alert in the event said health action to be executed is different-from

the health action executed by at least a user; and means for saving said medical data, said health

actions, and said monitoring rules."

12.     The limitations recited in independent claim 37 "… an automatism implemented with

medical data that are provided by at least one sensor that belongs to the patient and/or by a

second man-machine interface of a distant terminal located near the patient and/or by a third

man-machine interface of a networked station and/or by the network, said automatism applying

at least a monitoring rule to the medical data provided to the terminal by said second or third

man-machine interface, where said medical data was input by said medically-qualified person;

in order to associate with said medical data a health action to be executed, and generate an alert

in the event, said health action to be executed is different from the health action executed by at

least a user."

13.     When taken in context the claim(s) as a whole was/were not uncovered in the prior art

i.e., the dependent claims are allowed as they depend upon an allowable independent claim.

14.     Any comments considered necessary by applicant must be submitted no later that the

payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments regarding Statement of Reasons for

Allowance."

# Correspondence Information

15.     Any inquires concerning this communication or earlier communications from the

examiner should be directed to Michael B. Holmes, who may be reached Monday through

Thursday, between 5:00 a.m. and 6:00 p.m. EST. or via telephone at (571) 272-3686 or facsimile

transmission (571) 273-3686 or email michael.holmesb@uspto.gov.

If you need to send an Official facsimile transmission, please send it to (571) 273-8300.

If attempts to reach the examiner are unsuccessful the Examiner's Supervisor, David

Vincent, may be reached at (571) 272-3080.

Hand-delivered responses should be delivered to the Receptionist @ (Customer Service

Window Randolph Building 401 Dulany Street, Alexandria, VA 22313), located on the first floor

of the south side of the Randolph Building.

Finally, information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Moreover, status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more

information about the PAIR system, see http://pair-direct.uspto.gov. Should you have any

questions on access to the Private PAIR system, contact the Electronic Business Center (EBC)

toll-free @ 1-866-217-9197.

<div align="right">

*Michael B. Holmes*
Primary Examiner
Artificial Intelligence
Art Unit 2129
United States Department of Commerce
Patent & Trademark Office

</div>

*Thursday, February 26, 2009*
*MBH*

<div align="center">

*/Michael B. Holmes/*
*Primary Examiner, Art Unit 2129*

</div>